COURT NO.2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Income Tax Appeal No.48 of 2002

1. The Commissioner of Income Tax, Dehradun.
2. The Deputy C.I.T. Assessment Special Range-I Dehradun.

.....Appellants

Versus

ONGC as Agent of M/s Hundai Corporation
& Hundai Heavy Ind. Co. Ltd.,
Tel Bhawan, Dehradun ...Respondent

Dated: December 01, 2005

Mr. S.K. Posti, Advocate for the appellants.
Mr. J.P. Joshi, Advocate for the respondent.

Coram: Hon. P.C. Verma, J.
Hon. J.C.S. Rawat, J.

This appeal is against the order dated 30.03.2001, passed by the Income Tax Appellate Tribunal, (Delhi Bench 'A' New Delhi) in ITA No.6707(Del) of 1992. The dispute relates to the Assessment Year 1985-86.

2. The substantial question of law raised in the appeal is as follows:

> "Whether on the facts and in the circumstances of the case, the learned Income Tax Appellate Tribunal was legally correct in holding hat the income determined on notional basis in accordance with Section 44BB of I.T.Act, 1961 was not liable to be grossed up under Section 195 A of the Income Tax Act, 1961?"
>
> "Whether on the facts and in the circumstances of the case, the learned Income tax Appellate Tribunal was legally justified in confirming the order of the CIT(A) who held that after determination of appellants under Section 44BB of the Income Tax Act, 1961, further addition on account of tax perquisite was not justified?"

3. This Court in the case of Commissioner of Income Tax, Meerut and another Vs. ONGC as agent of Cooper Engineering Services International Incorporated and connected cases, which was reported in (2003) 264 ITR 340, held that the Tribunal was right in holding that Multiple Stage Grossing Up of income was not applicable to notional income under section 44BB read with section 195A of the Income Tax Act, 1961.

4. Following the above-mentioned judgment of a Division Bench of this Court, we dismiss this appeal.

(J.C.S. Rawat, J.) **(P.C. Verma, J.)**

Rajeev Dang